

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

BURBERRY LIMITED (UK) and  
BURBERRY LIMITED (US),

Plaintiffs,

v.

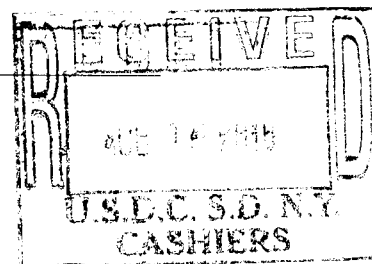
VARIAZIONI;  
INSTYLE COLLECTION, INC.  
d/b/a VARIAZIONI NYC;  
VARIAZIONI-35, LTD.;  
VARIAZIONI-57, LTD.;  
STYLEX DESIGN LLC;  
STYLEX LIMITED;  
MANOUCHER "MIKE" HEDVAT; and  
JOHN DOES 1-10,

Defendants.

10 CV 6104

Civil Action

No. \_\_\_\_\_



**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiffs Burberry Limited, a United Kingdom corporation ("Burberry Limited (UK)") and Burberry Limited, a New York corporation ("Burberry Limited (US)") (collectively, "Burberry" or "Plaintiffs"), by their counsel The Gioconda Law Group PLLC, complain and allege against Defendants Variazioni, Instyle Collection, Inc. d/b/a Variazioni NYC, Variazioni-35, Ltd., Variazioni-57, Ltd., Stylex Design, LLC, Stylex Limited, Manoucher "Mike" Hedvat, and John Does 1-10 (collectively, "Variazioni" or "Defendants") as follows:

### **NATURE OF THE ACTION**

1. This action concerns Defendants' willful infringement and counterfeiting of Burberry's famous and federally registered trademarks. Specifically, this is an action for trademark counterfeiting, trademark infringement, trademark dilution and for violations of the New York State common law and related causes of action brought pursuant to Sections 32, 43(a) and 43(c) of the Lanham Act, 15 U.S.C. §§ 1114, 1125(a) and (c), Sections 349, 350 and 360-1 of the New York General Business Law, and the common law of the State of New York. In this Complaint, Burberry seeks injunctive relief and damages arising from Defendants' breach of contract and willful appropriation of several famous and distinctive Burberry trademarks. Defendants have, on multiple occasions, offered for sale and sold purportedly authentic "Burberry"-branded merchandise at its retail stores that is in fact counterfeit and/or otherwise infringes upon Burberry's trademark rights.

2. For over a century, Burberry has devoted substantial resources to promoting the goodwill of its principal trademarks, including its BURBERRY® word mark, its distinctive check trademark (the "BURBERRY CHECK") and the Burberry equestrian knight on horseback (the "BURBERRY EQUESTRIAN KNIGHT") (collectively, the "Burberry Trademarks") for a wide variety of goods, including apparel and accessories. As a result, the Burberry Trademarks have become famous and serve to symbolize Burberry and its reputation as a manufacturer of high quality luxury brand products.

3. Attempting to capitalize on this fame, since at least 2009, Defendants have sold what they claim is authentic "Burberry"-branded quilted ladies jackets, raincoats, shirts, zip up ladies jackets, and sport pants. The merchandise, as well as the labels, tags, packaging, and

receipts, displays marks identical to the Burberry Trademarks. This merchandise, however, is not authentic.

4. Defendants consist of a “shell game” of sham businesses that operate a chain of upscale boutique retail stores in and around New York and New Jersey under the name “VARIAZIONI.”

5. Defendants’ sophisticated counterfeiting operation is willful and deliberate, as it persisted even after they signed a formal Settlement Agreement with Burberry in August 2009 (hereinafter the “August 2009 Settlement Agreement”, attached to this Complaint as Exhibit 1), in which Variazioni specifically agreed that it would not infringe the Burberry Trademarks.

6. Defendants’ misuse of the Burberry Trademarks on counterfeit merchandise has significantly injured Burberry’s reputation and goodwill, and has diluted the distinctiveness of the famous Burberry Trademarks. Unless enjoined, Defendants’ conduct will continue to injure both Burberry and the public.

### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over the subject matter of this action pursuant to Section 39 of the Lanham Act, 15 U.S.C. § 1121, 28 U.S.C. §§ 1331 and 1338(a) for the claims arising out of the violations of Sections 32 and Section 43 of the Lanham Act; has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 for the claims arising out of the violation of Sections 349, 350 and 360-1 of the New York Business Law, and all other claims arising under the common law of the State of New York; and has jurisdiction pursuant to 28 U.S.C. §§ 1338(b) and 1367 for the claims under the common law of unfair competition.

8. This Court has personal jurisdiction over Defendants because they are either incorporated in New York, are residents of New York, or are regularly doing business in this

district and the products that are the subject of this action are sold in this district. The Court additionally has jurisdiction over Defendant Variazioni as it consented to such jurisdiction pursuant to Paragraph 10 of the August 2009 Settlement Agreement. (Exhibit 1 at ¶ 20).

9. Venue is proper in this judicial district under 28 U.S.C. § 1391, as a substantial part of the events giving rise to the claims occurred in this district.

## **PARTIES**

### **Plaintiffs**

10. Plaintiff Burberry Limited (UK) is a corporation duly organized and existing under the laws of the United Kingdom with a principal place of business at Horseferry House, Horseferry Road, London, SW1P 2AW, United Kingdom.

11. Plaintiff Burberry Limited (US) is a corporation duly organized under the laws of the State of New York with a principal place of business at 444 Madison Avenue, New York, New York 10022.

### **Defendants**

12. DEFENDANT VARIAZIONI

- a. Upon information and belief, and representations made in the August 2009 Settlement Agreement, Defendant Variazioni is a New York company with a principal place of business at 248 West 35<sup>th</sup> Street, 14<sup>th</sup> Floor, New York, NY 10001.
- b. Upon information and belief, Defendant Variazioni is affiliated with one or more of the other named Defendants.
- c. Upon information and belief, Defendant Variazioni is the registrant of the Internet website [variazioninyc.com](http://variazioninyc.com).

- d. The Internet website currently located at <http://www.variazioninyc.com> displays the office address of Defendant Variazioni in the “Contact” and “Careers” sections. (Website printout of <http://www.variazioninyc.com> attached to this Complaint as Exhibit 2).
  - e. Under the “Locations” section, this website lists retail stores located at the following locations (Id):
    - i. 2395 Broadway, at 88<sup>th</sup> Street, New York, NY 10024;
    - ii. 2389 Broadway, at 87<sup>th</sup> Street, New York, NY 10024;
    - iii. 23 Prince Street, New York, NY 10012; and
    - iv. 311 Millburn Avenue, Millburn, NJ 07041.
13. DEFENDANT INSTYLE COLLECTION, INC., D/B/A VARIAZIONI NYC
- a. Upon information and belief, Defendant Instyle Collection, Inc., D/B/A Variazioni NYC (“Instyle Collection, Inc.”) is a corporation organized under the laws of the State of New Jersey, located at 23 Prince Street, New York, NY 10012.
  - b. Upon information and belief, Defendant Instyle Collection, Inc.’s status as a corporation has been revoked by the State of New Jersey for failure to comply with its filing obligations.
  - c. Upon information and belief, Defendant Instyle Collection, Inc. is registered with the State of New York as a foreign corporation.
  - d. Upon information and belief, Defendant Instyle Collection, Inc. is affiliated with one or more of the other named Defendants.

- e. Upon information and belief, Defendant Instyle Collection, Inc. operates VARIAZIONI retail stores located at 151 West 72<sup>nd</sup> Street, New York, NY 10023; 195 Spring Street, New York, NY 10012; 65 Spring Street, New York, NY 10012; and 325 Bleecker Street, New York, NY 11237.
14. DEFENDANT VARIAZIONI-35 LTD.
- a. Upon information and belief, Defendant Variazioni-35 Ltd. is a New York corporation located at 237 West 35<sup>th</sup> Street, 14<sup>th</sup> Floor, New York, NY 10001, and which owns and/or operates retail locations in this judicial district.
  - b. Defendant Manoucher “Mike” Hedvat is listed in the address for service of process on VARIAZIONI-35 Ltd.
  - c. Upon information and belief, Defendant Variazioni-35 Ltd. is affiliated with one or more of the other named Defendants.
15. DEFENDANT VARIAZIONI-57 LTD.
- a. Upon information and belief, Defendant Variazioni-57 Ltd. is a New York corporation affiliated with one or more of the other named Defendants.
  - b. Jacob Rabinowitz, Defendants’ counsel, is the designated agent for service of process on Defendant Variazioni-57 Ltd.
16. DEFENDANT STYLEX DESIGN LLC
- a. Upon information and belief, Defendant Stylex Design LLC, is a New York domestic limited liability company, with an address for service of process of: “C/O Manoucher Hedvat, 8 Shore Park Road, Great Neck, NY 11023.”
  - b. Upon information and belief, Defendant Stylex Design, LLC is affiliated with one or more of the other named Defendants.